

REMARKS

Claim 1 has been rejected under 35 U.S.C. § 112, first and second paragraph. Claims 2-9 have been objected to as being dependent on a rejected base claim.

Claim 4 has been amended. Claims 10-15 have been added.

In Claim 4, Applicants have deleted the extraneous word “of” at line 2 of the claim.

Claim 10 is an independent claim that recites “a method for producing a complex metal salt comprising heating at least two metal salts, or a complex metal salt comprising two different metals, at a hydrogen halide gas concentration of not more than about 0.1 vol%, to a temperature at which transition to a complex metal oxide occurs, and calcining the metal salts or the complex metal salt in the presence of a hydrogen halide gas.” Support for Claim 10 can be found, for example, on page 4, lines 12-18.

Claims 11-15 are dependent on Claim 10 and mirror the subject matter of Claims 2, 3, 4, 7 and 8.

Upon entry of the amendment, Claims 1-15 will be all the claims pending in the application.

Response to the Rejection of Claim 1 under 35 U.S.C. § 112, first paragraph

Claim 1 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement.

It is asserted that Claim 1 contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor at the time the application was filed had possession of the claimed invention.

More specifically, it is asserted that the phrase “in the substantial absence of hydrogen halide gas” is new matter.

Applicants’ Response

Applicants respectfully submit that Claim 1 is in compliance with 35 U.S.C. § 112, first paragraph. Specifically, Applicants submit that “substantial absence” is fully supported in the specification and should not be considered new matter.

In the Amendment under 37 C.F.R. § 1.111, Applicants pointed out that the phrase “in the substantial absence of hydrogen halide gas” was supported in the specification at page 8, lines 12-20: “substantial absence means that the gas is at a concentration in a range such as not to affect the object of the present invention, and normally not more than about 0.1 vol%.”

In view of the explicit teachings of the specification, Applicants submit that the amendment to Claim 1 entered with the Amendment under 37 C.F.R. § 1.111 did not introduce new matter. Accordingly, Applicants submit that the § 112, first paragraph, rejection be reconsidered and withdrawn.

Response to the Rejection of Claim 1 under 35 U.S.C. § 112, second paragraph

Claim 1 has been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctively claim the subject matter which Applicants regard as the invention.

It is the Examiner position that the phrase “in the substantial absence of hydrogen halide gas” is indefinite as to how much gas is considered to be a substantial absence of hydrogen halide gas.

Applicants' Response

Applicants respectfully submit that Claim 1 is in compliance with 35 U.S.C. § 112, second paragraph.

Applicants submit that relative claim language, such as the term “substantially,” does not automatically render the claim indefinite. *Seattle Box Co., v. Industrial Crating & Packaging, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. 1984). Applicants additionally submit that acceptance of the claim language depends on whether one of ordinary skill in the art would understand what is claimed, in light of the specification. MPEP § 2173.05(b).

Similar to the § 112, first paragraph rejection, Applicants point out that on page 8, lines 14-20 of the specification, it states that “substantial absence means that the gas is at a concentration in a range such as not to affect the object of the present invention, and normally not more than about 0.1 vol%.”

In view of the specific teachings of the specification, Applicants submit that one skilled in the art would be able to easily identify the amount of hydrogen halide gas defined by a “substantial absence.” Therefore, Applicants respectfully request that the § 112, second paragraph rejection of Claim 1 be reconsidered and withdrawn.

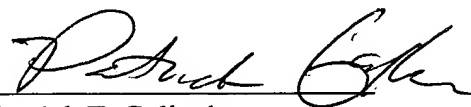
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.114(c)
U.S. Appln. No. 09/976,010

Q66667

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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